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In re application of: Dupont et al.

Serial No.: 09/879,660

Filed: June 12, 2001

For: LOW MOLECULAR WEIGHT

COMPONENTS OF CARTILAGE, COMPLEXES OF METALS WITH AMINO ACIDS, DI-PEPTIDES AND ANALOGS THEREOF; PROCESSES

FOR PREPARATION AND THERAPEUTIC USES THEREOF

Confirmation No. 29 TECH CENTER 1600/2900

Group Art Unit: 1653

Examiner: Kam, Chih-Min

RESPONSE TO OFFICE ACTION

Commissioner of Patents and Trademarks Box Non-Fee Amendment Washington, D. C. 20231 EXPRESS MAIL NO.: <u>EV 158738449 US</u>
DATE OF DEPOSIT: <u>2/28/2003</u>

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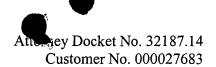
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Dear Sir:

In response to the Office action mailed January 29, 2003, applicants hereby elect for prosecution herein, the Group III claims, namely claims 8-19.

Applicants hereby further select a dipeptide as the unit complexed to a copper metal ion as set forth in claim 8. Applicants note the Examiner's determination that a compound according to claim 8 in which dipeptide (i.e. two amino acid) units are complexed to a copper metal ion is patentably distinct from a compound according to claim 8 in which single amino acid units are complexed to a copper metal ion.

Applicants hereby further select an anti-tumor agent as set forth in claim 16. In this regard, the Office action states: "[t]his is not species election." Claim 16, however, is a Markush-type claim and is therefore generic to the members of the Markush group. In addition,



claim 16 has unity of invention because the members of the Markush group share a common utility. Specifically, the members of the Markush group of claim 16 can all be used in a composition according to claim 12. Therefore, as set forth in MPEP § 803.02, it is improper for the Patent Office to refuse to examine that which the Applicants regard as their invention, i.e. the subject matter of claim 16. Accordingly, it is respectfully submitted that the requirement set forth in the Office action as to claim 16 is a species election.

Applicants respectfully submit that the foregoing constitutes a complete response to the restriction requirement set forth in the Office action mailed January 29, 2003. Accordingly, Applicants respectfully request an early action on the merits.

Respectfully submitted,

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